

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1997-239-C

IN RE:)	
)	
INTRASTATE UNIVERSAL SERVICE)	PETITION OF THE OFFICE OF
FUND)	REGULATORY STAFF FOR AN
)	ORDER CLARIFYING USE
)	GUIDELINES AND REQUEST
)	FOR EXPEDITED RELIEF

INTRODUCTION

Pursuant to Order No. 2005-7 issued January 11, 2005 in this docket, the Commission designated the Office of Regulatory Staff (“ORS”) as the Administrator of the South Carolina Intrastate Universal Service Fund (the “Fund” or “USF”) subject to a further Order to be issued after the Commission has fully considered the appropriate guidelines for appointment of the ORS as Administrator. The Commission determined that “ORS shall have full authority to assess, disburse, and perform all other ministerial functions connected with administering the USF as may be appropriate, within the existing guidelines, until such time as this Commission issues a full Order on the issue in the near future.”¹ The Commission set the guidelines for the Fund administration in Order No. 2001-996. Based on the experience gained from administering the Fund for the past fourteen months, ORS has identified certain issues that require clarification. The audits conducted by ORS show that companies are interpreting the guidelines differently. Specifically, there appears to be some confusion as to what types of revenues should be included for Fund assessment. ORS seeks an expedited ruling as it plans to make

¹ See Order No. 2005-7 page 1.

adjustments to the Fund in the May-June, 2006 time frame in preparation for the annual October 1, 2006 fund resizing. Through this Petition, ORS seeks clarification of certain issues that are affecting the Fund administration and will impact any adjustments to the Fund and, therefore, respectfully requests that the Commission rule on these issues expeditiously.

JURISDICTION

This Commission has jurisdiction over this matter pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2004).

PETITION FOR DECLARATORY ORDER

Pursuant to 26 S.C. Code Regs. 103-836 (A)(2) (Supp. 2003), ORS files this Petition for Declaratory Order and as grounds therefore respectfully submits the following:

1. ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B) (added by Act 175). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

...‘public interest’ means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

2. As part of the administration of the Fund, certain issues requiring clarification have arisen and are as follows: (I) whether international revenues should be included in the intrastate USF assessment; (II) whether under current Commission orders, broadband and wireless services revenues should be included in the intrastate USF assessment; (III) whether revenues from directory listings, surcharges assessed to recover Federal universal service fund charges, and revenues from the provision of special access services to retail end users should be included in the intrastate USF assessment; (IV) how the end user USF surcharges should be assessed to services provided to Lifeline recipients; and (V) whether the ORS has the authority to write off uncollectible debts.

3. The first issue that has created uncertainty concerns international calls that originate and/or terminate with a South Carolina end user. S.C. Code § 58-9-280 (E)(2) states that the Commission shall require all telecommunications companies providing telecommunications services within South Carolina to contribute to the USF as determined by the Commission. In its Order 2001-996 issued October 10, 2001, the Commission held on page 4 of Exhibit A that “all telecommunications carrier's offering services within the state shall contribute to the USF on the basis of their relative shares of all retail "end user" telecommunications revenues generated by and/or billed to an end user in the State of South Carolina.” However, on page 2 of Exhibit B, the Commission specified that end user retail telecommunications revenues included both **interstate and intrastate** generated by and/or billed to an end user in South Carolina. The Commission did not expressly include international calls that originated and/or terminated to an end user located in South Carolina. Some carriers have reported and included international revenues in the intrastate USF assessment while other carriers have not. Of those carriers

that have included international revenue in the intrastate USF assessment, some are now seeking a refund of those overpayments. If ORS makes adjustments for this fiscal year, on a going forward basis, to account for the international revenue, the shortfall will need to be captured in future assessments. ORS seeks a declaratory ruling from the Commission that revenues from international calls should not be included in the Fund assessment.

4. The second issue is whether, under current Commission orders, wireless and broadband revenues should be included for assessment purposes. While the General Assembly has given the Commission the opportunity pursuant to S.C. Code § 58-9-280(E)(3) and (9) to include wireless and broadband revenues within the Fund, the Commission has not determined that these two services should be included in the Fund assessment. While some companies have included these revenues for assessment purposes, most companies have not. ORS seeks a declaratory ruling from the Commission that revenues from broadband and wireless services should not be included in the Fund assessment based on current Commission directives. ORS does not seek to raise the policy issue of whether wireless and/or broadband revenues should be assessed intrastate USF; ORS simply seeks to clarify the current law so that carriers are able to report assessable revenues correctly and consistently.

5. The third issue is whether the Fund assessment should include directory listings, Federal USF surcharges (“Federal USF”), and special access charges to end users. ORS submits that the Fund assessments should not include revenues from directory listings because directory listings are not included in the definition of

telecommunications services adopted by the Commission in Order No. 2001-996.² However, the Fund assessment should include revenues from Federal USF surcharges collected and special access sales to retail end users in South Carolina.

6. The fourth issue requiring clarification is the manner in which the USF surcharge is charged to Lifeline customers. While some companies do not assess the USF surcharge on any of the services provided to Lifeline customers, other companies do not assess the USF surcharge on the exchange access line charges for Lifeline customers but do assess the USF surcharge for other vertical services to which the recipient may subscribe. ORS requests that the Commission issue a Declaratory Order that the USF surcharge should be collected on services provided to a Lifeline customer that exceeds the lifeline credit for purposes of uniformity and to ensure nondiscriminatory treatment.

7. The fifth issue requiring clarification is whether ORS has the authority to write-off bad debts and remove the corresponding amount from accounts receivable. The independent auditor, Scott McElveen, L.L.P., recommended that as part of generally accepted accounting principles such an allowance for bad debt be established. As a result of the write-off, the Fund will experience a shortfall which must be added to the contribution requirement in the following year.³ ORS requests that the Commission issue a Declaratory Order that ORS has the necessary authority to remove bad debts from accounts receivables.

² See Order No. 2001-996, Exhibit A, page 4.

³ See Order No. 2001-996, Exhibit A, Paragraph 7: Any excess funds not distributed during a Plan year shall only be used to reduce the following Plan year's funding contribution requirement. Any funding shortfall existing at the end of a Plan year shall be added to the contribution requirement in the following year.

CONCLUSION

8. ORS seeks a ruling from the Commission on the five issues described in this Petition and respectfully requests that the Commission expeditiously issue a ruling such that the ORS may complete its contemplated adjustments prior to the annual resizing of the Fund.

WHEREFORE, ORS respectfully requests that the Commission enter a Declaratory Order as requested herein.

March 16, 2006

/s/ Nanette S. Edwards

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CERTIFICATE OF SERVICE

I, Nanette S. Edwards, do hereby certify that I have this date, March 16, 2006, served one (1) copy of this Petition for Declaratory Order in the above-referenced matter on the parties of record listed below by causing said copy to be deposited U.S. Mail, first class postage prepaid.

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